

# Notice of Allowability

Application No.

09/502,283

Examiner

Jon D. Epperson

Applicant(s)

RAILLARD ET AL.

Art Unit

1639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/13/06.
2. ☒ The allowed claim(s) is/are 3-6, 23-26, 72, 73, 77, 78, 106-110, 115-119 and 125-143 (renumbered 1-41).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Application***

1. Receipt is acknowledged of a response, which was dated on April 13, 2006.

### ***Status of the Claims***

2. Claims 3-6, 23-26, 72, 73, 77, 78, 106-110, 115-119 and 125-143 are currently pending and examined on the merits. Please note that all previous species elections (e.g., see 7/2/01 Restriction, page 3, "Election of Species" section) have been withdrawn in view of the fact that that the art search was extended to all species and no prior art was found that anticipates or renders obvious the instant claims in accordance with MPEP § 803.02. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.
3. Furthermore, all outstanding rejections and/or objections are hereby withdrawn in view of Applicants' amendments (e.g., see 8/29/05 response). Specifically, Applicants' amendments overcome the Aebersold et al. rejections under 35 U.S.C. §§ 102 and 103 for the reasons set forth

below. In addition, the rejection to claim 12 is rendered moot in view of Applicants' cancellation of claim 12 (e.g., see 8/20/05 response).

***Reasons for Allowance***

4. The claims are allowed for the reasons noted before (e.g., see 11/29/06 Notice of Allowance) that the prior art of record does not teach or fairly suggest applicants' claimed method. Specifically the prior art of record does not teach the use of a centrifugation or filtration step in the absence of a chromatographic separation prior to step (iv) and the use of flow-injection analysis and electrospray tandem mass spectrometry. The closest prior art of record, Aebersold et al. (U.S. Pub. No. 2002/0076739), fail to disclose the use of complex mixtures that would be produced by the centrifugation and/or filtration steps in the absence of a chromatographic separation prior to step (iv). In addition, Aebersold et al. do not teach the use of a centrifugation or filtering step in conjunction with the use of a flow-injection electrospray tandem mass spectrometer.

Furthermore, Applicants' petition and submission (e.g., see 4/13/06 Response) overcame the outstanding unmet drawing requirement (e.g., see 2/28/06 Interview Summary; see also 4/13/06 Petition and drawing submission; see also Petition decision by John Gillon on 6/27/06).

Therefore, claims 3-6, 23-26, 72, 73, 77, 78, 106-110, 115-119 and 125-143 (renumbered 1-41) are allowed. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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***Salutation***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon D Epperson whose telephone number is (571) 272-0808. The examiner can normally be reached Monday-Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached on (571) 272-4517. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jon D. Epperson, Ph.D.  
October 29, 2006

JON EPPERSON, PH.D.  
PATENT EXAMINER

A handwritten signature in black ink, consisting of a stylized 'J' followed by a long horizontal stroke.